

REMARKS

Claims 93-178 were previously pending in this application. By this amendment, Applicant is canceling no claims. Claim 142 has been amended. No new claims have been added. As a result claims 93-178 are pending for examination with claims 93, 147 and 175 being independent claims. No new matter has been added. The application as presented is believed to be in condition for allowance.

Double Patenting Rejection

Claims 93, 147 and 175 stand rejected under the judicially created doctrine of double-patenting over claim 1 of U.S. Patent No. 6,714,977. However, the Office Action also states that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome this rejection. Without acceding to the correctness of this rejection, Applicant is filing herewith a Terminal Disclaimer with respect to U.S. Patent No. 6,714,977 in compliance with 37 C.F.R. 1.321(c). Accordingly, withdrawal of the rejection of claims 93, 147 and 175 is respectfully requested.

Provisional Double Patenting Rejection

Claims 93, 147 and 175 also stand provisionally rejected on the grounds of nonstatutory double patenting over claims 93, 98, 103 and 107 of co-pending Application No. 10/775,898. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. Without acceding to the correctness of this rejection, Applicant defers from filing a Terminal Disclaimer until allowable subject matter is recognized in the either present application or Application No. 10/775,898. Applicant respectfully requests that the Examiner hold this rejection in abeyance pending recognition of allowable subject matter in the either present application or Application No. 10/775,898.

Rejections Under 35 U.S.C. §103

On page 4, the Office Action states that claims 93-178 are rejected under 35 U.S.C. §103(a) as being unpatentable over Beheshti et al., U.S. Patent No. 5,955,946 in view of U.S. Patent No. 6,139,177 to Venkatraman (hereinafter Venkatraman). However, no reasoned basis is provided for the rejection of claims 147-178 under this combination. In addition, page 14 of the Office Action states that claims 147-178 are rejected under 35 U.S.C. §103(a) as being unpatentable over Beheshti in view of Venkatraman in further view of U.S. Patent No. 6,363,422 to Hunter et al. (hereinafter "Hunter"). Therefore, Applicant assumes claims 93-146 stand rejected under the proposed combination of Beheshti and Venkatraman and that claims 147-178 stand rejected under the proposed combination of Beheshti, Venkatraman and Hunter. As explained below, these proposed combinations fail to render claims 93-178 obvious because the proposed combinations are improper.

Beheshti is directed toward "an alarm/facility management unit... for remote, real-time monitoring of network components" (col. 1, lines 6-9). Beheshti discloses that this unit has a "microprocessor" (col. 4, line 3) and "can receive functionally specific cards" (col. 6, line 39) that "include cards for providing serial communications to the NOC, cards for providing serial port communications with external devices, cards for providing an Ethernet connection, cards for providing primary and secondary dial-up connectivity, and a primary power card for receiving input power" (col. 6, lines 41-46). Additionally, as disclosed in Beheshti, the unit includes "two environmental sensors for continuously monitoring temperature and relative humidity to determine if conditions are with pre-set thresholds" (col. 7, lines 56-59).

One of the disclosed objects of Beheshti is "to provide an alarm/facility management unit with a unique software program that provides powerful reporting and analysis capabilities" (col. 4, lines 53-55). To achieve this objective, Beheshti discloses that "[t]hrough integration with a Hewlett Packard software program named Openview™, the alarm/facility management unit 10 provides powerful reporting and analysis capabilities" (col. 9, lines 20-23). Thus, one of the unique aspects of Beheshti is its tight integration with HP Openview.

Venkatraman is directed toward a device including a "web page [that] enables selection of at least one control function for the device" (Abstract). With reference to FIG. 1, Venkatraman discloses a "device home page 18 [that] may include control buttons according to

the HTTP protocol that enable various control functions for the device 10 to be initiated from a web client via the communication path 22” (col. 4, lines 4-8). Venkatraman also discloses that the “costs of providing screen based control mechanisms are exported away from the device and do not require an external computer to provide web access functionality to the device” (col. 2, lines 15-19).

Hunter is directed toward a system including “[o]ne or more client devices [that] are coupled to a system server through a network link, with the network adapted to support TCP/IP packet-based data transmission protocols” (Abstract). Hunter discloses that “client devices carry out normal monitoring functions locally” (Abstract). According to Hunter, “[r]egardless of the nature of the communication interface between the client and its supported equipment, the client communicates with each apparatus using its vendor specific native language protocol” (col. 6, lines 6-9). The types of supported equipment disclosed by Hunter include “[e]nvironmental control equipment” (col. 9, line 20) and “[s]ecurity systems [that] ... may include closed circuit video monitoring systems and web-based cameras” (col. 9, lines 42-44).

Contrary to the assertions made in the Office Action, the proposed combinations of Beheshti, Venkatraman and Hunter fail to render claims 93-178 obvious because the proposed combinations are improper. More particularly, in the Office Action, the proposed combination of Beheshti and Venkatraman is asserted against claims 93-146. The Office Action states that “it would have been obvious to a person of ordinary skill in the art to combine the teachings of Venkatraman with that of Beheshti” (Page 5). Applicant disagrees because Beheshti teaches away from a combination with Venkatraman.

As discussed above, an objective of Beheshti is to provide “a unique software program” that integrates the unit of Beheshti with HP Openview to provide “powerful reporting and analysis capabilities.” This integration with HP Openview, however, would render the addition of a web server within the unit superfluous, as HP Openview, rather than the additional web server, would provide users with the reporting capabilities so highly touted in Beheshti. Therefore, the proposed combination fails because Beheshti quite literally teaches away from reporting directly from the unit in favor of reporting through HP Openview.

In addition, the motivation provided in the Office Action fails to establish a reasoned basis for combining Beheshti and Venkatraman. The Office Action states that the motivation for combining Venkatraman with Beheshti “would have been to provide a webpage display for

result of the sensor which in turn reduces the cost of having the web functionality embedded in the device” (Page 5, emphasis added). However, given that Beheshti fails to disclose a web server configured to provide a webpage, it is unclear how the introduction of Venkatraman would reduce “the cost of having web functionality embedded in the device.” Consequently, the proposed combination fails because the proposed motivation does not provide a clear reason to combine Beheshti and Venkatraman.

Furthermore, in the Office Action, the proposed combination of Beheshti, Venkatraman and Hunter is asserted against claims 147-178. However, this combination fails based on the same reasoning articulated above because Beheshti teaches away from reporting directly from the unit in favor of reporting through HP Openview. Neither of these improper combinations of references may be used as a basis for rejection under 35 U.S.C. §103(a). Accordingly, withdrawal of the rejection of claim 93-178 is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. A2000-720020.

Respectfully submitted,

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